

Attorney Docket No. 56765.US/ C-3525.0

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Gary H. Knauf

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Application No.: 09/978,524

JUN 21 2004

Filing Date: October 16, 2001

Title: METHOD FOR EXTRUSION COATING A LIGHTWEIGHT
WEB

Group Art Unit: 1771

OFFICIAL

Examiner: Christopher C. Pratt
571-272-1700

Confirmation No.: 5048

PETITION TO WITHDRAW HOLDING OF
ABANDONMENT UNDER 37 C.F.R. 1.81

Honorable Commissioner for Patents
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Petition to Withdraw a Holding of Abandonment, pursuant to 37
C.F.R. 1.181, is submitted in response to the Notice of Abandonment, mailed
June 3, 2004.

Factual Summary

On September 26, 2003, Applicant received a Office Action in the above-identified patent application dated September 24, 2003 in which the Examiner issued a Restriction Requirement. A shortened statutory period for reply was set to expire one (1) month from the date of mailing, i.e., by October 24, 2003.

On October 23, 2003, Applicant filed a Response to the Restriction Requirement in the above-identified patent application, responsive to the Office Action of September 24, 2003. The Response was accompanied by Certificate of Mailing, pursuant to 37 C.F.R. §1.8, attesting that the Response was mailed on October 23, 2003. The

U.S. Application No. 09/978,524

timely mailing of the response is also attested to in the accompanying declaration of Mark S. Graham. Also submitted with the Response was a return receipt post card identifying the Response to the Restriction Requirement as an enclosure in the filing.

On November 4, 2003, Applicant received the return receipt post card stamped by the Patent and Trademark Office, indicating that the Response to Restriction Requirement had been received by the Patent Office. Copies of the October 23, 2003 Response, the Certificate of Mailing, and the stamped return receipt post card are enclosed herein.

Applicant then heard nothing further from the Patent Office in this case until June 3, 2004, when Applicant received a Notice of Abandonment in the above-identified patent application indicating that the Patent Office considered the application abandoned based upon "Applicant's failure to timely file a proper reply to the Office letter mailed on 9/24/03", i.e., the aforementioned restriction requirement. The Notice further indicated that "no reply has been received" at all by the Patent Office as opposed having received an untimely response.

REMARKS

This Petition is submitted pursuant to 37 C.F.R. §1.81 requesting that the holding of abandonment be withdrawn in this case. See M.P.E.P. §711.03 (c).

As may be seen from the factual summary above, Applicant has received a Notice of Abandonment for failure to respond to a Restriction Requirement dated September 24, 2003, when in fact Applicant did timely respond to the restriction requirement on October 23, 2003. This response included a Certificate of Mailing signed by Mark S. Graham entitling the response to be considered as timely filed as of its mailing date pursuant to 37 C.F.R. §1.8. A declaration from Mr. Graham further attesting to the timely mailing of the Response is also enclosed.

Applicant's response is also evidenced by the return receipt post card which was stamped by the Patent Office acknowledging receipt of the Response.

Based on the foregoing, it is clear that Applicant did timely respond to Restriction Requirement of September 24, 2003, and the same Response was actually received by the Patent Office. Accordingly, it is submitted that the holding of

U.S. Application No. 09/973,524

abandonment noted in the June 3, 2004, Notice of Abandonment is clearly improper and should not have been issued.

Applicant therefore respectfully petitions and requests his Response to the Restriction Requirement be entered into the case with a date of October 23, 2003, that the holding of abandonment be withdrawn, and that the application be promptly examined on the merits.

It is believed that no fees are due in connection with this petition. However, if any fees are deemed necessary in connection with the petition, Applicant requests that any such fees be charged to our **Deposit Account No. 12-2355**.

Respectfully submitted,

LUEDEKA, NEELY & GRAHAM, P.C.

By:



J. David Gonce

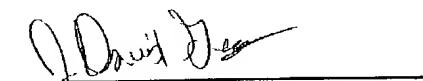
Registration No. 47,601

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* * *CERTIFICATE OF FACSIMILE TRANSMISSION* * *

I hereby certify that this correspondence consisting of 6 pages is being facsimile transmitted to the Patent and Trademark Office at (703)-872-9306, Group Art Unit 1771:

on June 21, 2004
Date


J. David Gonce, Reg. No. 47,601